

UNITED STATES DISTRICT COURT  
for the  
DISTRICT OF MASSACHUSETTS

ETHAN THOMAS,  
Plaintiff

05 - 11443 GAO

Civil Action

V.

No.

NEW ENGLAND FAST FERRY OF  
MASSACHUSETTS, LLC,  
NEW ENGLAND FAST FERRY  
COMPANY, LLC, and  
INTERLAKE LEASING IV, INC.,  
Defendants

MAGISTRATE JUDGE MBB

RECEIPT # 65481  
AMOUNT \$ 250  
SUMMONS ISSUED Y  
LOCAL RULE 4.1  
WAIVER FORM  
MCF ISSUED  
BY DPTY. GLK FWA  
DATE 7/8/05

PLAINTIFF'S COMPLAINT AND DEMAND FOR TRIAL BY JURY

Now comes the Plaintiff in the above-entitled matter, and states as follows:

The parties

1. The Plaintiff, Ethan Thomas, is a resident of Edgartown, Massachusetts.
2. The Defendant, New England Fast Ferry of Massachusetts, LLC, is a limited liability company, organized and existing under the laws of the state of Delaware.
3. The Defendant, New England Fast Ferry of Massachusetts, LLC, has its principal office in Stamford, Connecticut.
4. On December 27, 2004, the Defendant, New England Fast Ferry of Massachusetts, LLC, was doing business within the Commonwealth of Massachusetts.
5. The Defendant, New England Fast Ferry Company, LLC, is a limited liability company, organized and existing under the laws of the state of Delaware.
6. The Defendant, New England Fast Ferry Company, LLC, has its principal office in Stamford, Connecticut.

7. On December 27, 2004, the Defendant, New England Fast Ferry Company, LLC, was doing business within the Commonwealth of Massachusetts.
8. The Defendant, Interlake Leasing IV, Inc., is a corporation, organized and existing under the laws of the state of Delaware.
9. The Defendant, Interlake Leasing IV, Inc., has its principal office in Stamford, Connecticut.
10. On December 27, 2004, the Defendant, Interlake Leasing IV, Inc., was doing business within the Commonwealth of Massachusetts.

Vessel Ownership, Operation, and Control

11. On or about December 27, 2004, the Defendant, New England Fast Ferry of Massachusetts, LLC, owned the M/V WHALING CITY EXPRESS.
12. On or about December 27, 2004, the Defendant, New England Fast Ferry of Massachusetts, LLC, operated the M/V WHALING CITY EXPRESS.
13. On or about December 27, 2004, the Defendant, New England Fast Ferry of Massachusetts, LLC, controlled the M/V WHALING CITY EXPRESS.
14. The Defendant, New England Fast Ferry of Massachusetts, LLC, chartered the M/V WHALING CITY EXPRESS from some other person or entity such that, on or about December 27, 2004, the Defendant New England Fast Ferry of Massachusetts, LLC was the owner pro hac vice of the M/V WHALING CITY EXPRESS.
15. On or about December 27, 2004, the Defendant, New England Fast Ferry Company, LLC, owned the M/V WHALING CITY EXPRESS.
16. On or about December 27, 2004, the Defendant, New England Fast Ferry Company, LLC,

operated the M/V WHALING CITY EXPRESS.

17. On or about December 27, 2004, the Defendant, New England Fast Ferry Company, LLC, controlled the M/V WHALING CITY EXPRESS.

18. The Defendant, New England Fast Ferry Company, LLC, chartered the M/V WHALING CITY EXPRESS from some other person or entity such that, on or about December 27, 2004, the Defendant New England Fast Ferry Company, LLC was the owner pro hac vice of the M/V WHALING CITY EXPRESS.

19. On or about December 27, 2004, the Defendant, Interlake Leasing IV, Inc., owned the M/V WHALING CITY EXPRESS.

20. On or about December 27, 2004, the Defendant, Interlake Leasing IV, Inc., operated the M/V WHALING CITY EXPRESS.

21. On or about December 27, 2004, the Defendant, Interlake Leasing IV, Inc., controlled the M/V WHALING CITY EXPRESS.

22. The Defendant, Interlake Leasing IV, Inc., chartered the M/V WHALING CITY EXPRESS from some other person or entity such that, on or about December 27, 2004, the Defendant Interlake Leasing IV, Inc., was the owner pro hac vice of the M/V WHALING CITY EXPRESS.

General factual allegations

23. On December 27, 2004, the Plaintiff, Ethan Thomas, was employed by the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority as a dock worker.

24. On December 27, 2004, the Plaintiff, Ethan Thomas, was assisting in the docking of the M/V WHALING CITY EXPRESS at the Steamship Authority dock in Vineyard Haven,

Massachusetts.

25. On December 27, 2004, during the course of its docking at the Steamship Authority dock in Vineyard Haven, the M/V WHALING CITY EXPRESS struck the dock.

26. On December 27, 2004, the Plaintiff sustained personal injuries as a result of the M/V WHALING CITY EXPRESS striking the dock.

27. Prior to and at the time he sustained the above-mentioned personal injuries, the Plaintiff was exercising due care.

#### Jurisdiction

28. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §1332, in that the parties are citizens of different states and the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

#### COUNT I

(Ethan Thomas v. New England Fast Ferry of Massachusetts, LLC)

(GENERAL MARITIME LAW NEGLIGENCE)

29. The Plaintiff reiterates the allegations set forth in paragraphs 1 through 28 above.

30. The personal injuries sustained by the Plaintiff were not caused by any fault on his part but were caused by the negligence of the Defendant New England Fast Ferry of Massachusetts, LLC, its agents, servants and/or employees.

31. As a result of said injuries, the Plaintiff has suffered pain of body and anguish of mind, lost time from his usual work and pursuits, incurred medical expenses, and has sustained and will sustain other damages as will be shown at trial.

WHEREFORE, the Plaintiff, Ethan Thomas, demands judgment against the Defendant,

New England Fast Ferry of Massachusetts, LLC, in the amount of \$1,000,000.00, together with interest and costs.

COUNT II

(Ethan Thomas v. New England Fast Ferry Company, LLC)

(GENERAL MARITIME LAW NEGLIGENCE)

32. The Plaintiff reiterates the allegations set forth in paragraphs 1 through 28 above.

33. The personal injuries sustained by the Plaintiff were not caused by any fault on his part but were caused by the negligence of the Defendant New England Fast Ferry Company, LLC, its agents, servants and/or employees.

34. As a result of said injuries, the Plaintiff has suffered pain of body and anguish of mind, lost time from his usual work and pursuits, incurred medical expenses, and has sustained and will sustain other damages as will be shown at trial.

WHEREFORE, the Plaintiff, Ethan Thomas, demands judgment against the Defendant, New England Fast Ferry Company, LLC, in the amount of \$1,000,000.00, together with interest and costs.

COUNT III

(Ethan Thomas v. Interlake Leasing IV, Inc.)

(GENERAL MARITIME LAW NEGLIGENCE)

35. The Plaintiff reiterates the allegations set forth in paragraphs 1 through 28 above.

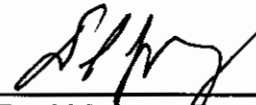
36. The personal injuries sustained by the Plaintiff were not caused by any fault on his part but were caused by the negligence of the Defendant Interlake Leasing IV, Inc., its agents, servants and/or employees.

37. As a result of said injuries, the Plaintiff has suffered pain of body and anguish of mind, lost time from his usual work and pursuits, incurred medical expenses, and has sustained and will sustain other damages as will be shown at trial.

WHEREFORE, the Plaintiff, Ethan Thomas, demands judgment against the Defendant, Interlake Leasing IV, Inc., in the amount of \$1,000,000.00, together with interest and costs.

THE PLAINTIFF DEMANDS A TRIAL BY JURY AS TO ALL ISSUES RAISED  
IN THIS COMPLAINT.

Respectfully submitted for the  
the Plaintiff, by his attorney,



David J. Berg, Esq.  
Latti & Anderson LLP  
30-31 Union Wharf  
Boston, MA 02109  
617-523-1000

Dated:

7/6/05



JS 44 (Rev. 11/04)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<b>I. (a) PLAINTIFFS</b> Ethan Thomas  <b>(b) County of Residence of First Listed Plaintiff</b> <u>Dukes</u> (EXCEPT IN U.S. PLAINTIFF CASES)  <b>(c) Attorney's (Firm Name, Address, and Telephone Number)</b> Latti and Anderson, LLP, 30-31 Union Wharf, Boston, MA 02109, 617-523-1000	<b>DEFENDANTS</b> New England Fast Ferry of Massachusetts, LLC, New England Fast Ferry Company, LLC, and Interlake Leasing IV, Inc., County of Residence of First Listed Defendant <u>Fairfield</u> (IN U.S. PLAINTIFF CASES ONLY)  NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.  Attorneys (If Known)
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<b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)  <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)  <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only) <table style="width: 100%;"> <tr> <td style="width: 33%;">Citizen of This State</td> <td style="width: 10%;"><input checked="" type="checkbox"/> 1</td> <td style="width: 10%;"><input type="checkbox"/> 1</td> <td style="width: 33%;">Incorporated or Principal Place of Business In This State</td> <td style="width: 10%;"><input type="checkbox"/> 4</td> <td style="width: 10%;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4														
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5														
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6														


IV. NATURE OF SUIT (Place an "X" in One Box Only)					
<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input checked="" type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<b>FORFEITURE/PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSD Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

<b>V. ORIGIN</b> (Place an "X" in One Box Only)						
<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment

<b>VI. CAUSE OF ACTION</b>	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  Brief description of cause: <u>Maritime personal injury case pursuant to 28 U.S.C. §1332.</u>
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<b>VII. REQUESTED IN COMPLAINT:</b>	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	<b>DEMAND \$</b> <u>1,000,000.00</u>	CHECK YES only if demanded in complaint: <b>JURY DEMAND:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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<b>VIII. RELATED CASE(S) IF ANY</b>	(See instructions): JUDGE _____	DOCKET NUMBER _____
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DATE <u>7/6/05</u>	SIGNATURE OF ATTORNEY OF RECORD 
<b>FOR OFFICE USE ONLY</b>	

RECEIPT # _____	AMOUNT _____	APPLYING IFP _____	JUDGE _____	MAG. JUDGE _____
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UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Ethan Thomas v. New England Fast Ferry of Massachusetts, LLC,  
New England Fast Ferry Company, LLC, and Interlake Leasing IV, Inc.,

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- ☐ I. 160, 410, 470, 535, R.23, REGARDLESS OF NATURE OF SUIT.
- ☐ II. 195, 196, 368, 400, 440, 441-446, 540, 550, 555, 625, 710, 720, 730, \*Also complete AO 109 or AO 121 for patent, trademark or copyright cases  
740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950.
- ☒ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310,  
315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371,  
380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 480, 490, 510, 530, 610, 620, 640, 650, 660,  
690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐ NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐ NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐ NO ☒

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐ NO ☒

7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES ☒ NO ☐

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division ☐ Central Division ☐ Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☒ Central Division ☐ Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐ NO ☒

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME David J. Berg

ADDRESS 30-31 Union Wharf, Boston, MA 02109

TELEPHONE NO. 617-523-1000